

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ruth E. Cook,
Petitioner-Appellant,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-30-0796 thru 0799

On June 3, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Ruth E. Cook, submitted evidence in support of her petition. She was represented by Durand R. Cook. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. It also submitted documentary evidence in support of its decision. Both parties agreed to submit this matter based on the record, without oral testimony at hearing. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Ruth E. Cook, owner of four properties located on 252nd Avenue, Orleans, Iowa, appeals from the Dickinson County Board of Review decision reassessing her property. The properties are lakeshore lots in the Pioneer Beach area of East Lake Okoboji. One of the parcels (Lot 45) has improvements and the other three are unimproved, vacant lots. According to the property record card in Docket No. 09-30-0796, Parcel No. 03-34-301-008 (Lot 46), has 40 feet of road and lake frontage, and is 213 feet deep. The parcel in Docket No. 09-30-0797, Parcel No. 03-34-301-009 (Lot 45), has 50 feet of road and lake frontage, and is 209 feet deep. The parcel in Docket No. 09-30-0798, Parcel No. 03-34-301-010 (Lot 44), has 50 feet of road and lake frontage, and is 199 feet deep. The parcel in

Docket No. 09-30-0799, Parcel No. 03-34-301-011 (Lot 43), has 44 feet of road and lake frontage, and is 193 feet deep. Parcel No 03-34-301-009 is improved by a one-story, frame dwelling having 1080 total square feet of living area, a half basement with no finish, and a detached 360 square-foot garage. The dwelling was built in 1949, is in above-normal condition, and has 4+00 quality grade.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued as shown below:

Docket No.	Parcel	Lot	Land AV	Bldg AV	Total AV
09-30-0796	03-34-301-008	46	\$ 187,800		\$ 187,700
09-30-0797	03-34-301-009	45	\$ 232,700	\$ 69,300	\$ 302,000
09-30-0798	03-34-301-010	44	\$ 230,500		\$ 230,500
09-30-0799	03-34-301-011	43	\$ 201,000		\$ 201,000
			\$ 852,000	\$ 69,300	\$ 921,200

Cook protested to the Board of Review on the ground there has been a downward change in value under Iowa Code sections 441.37(1) and 441.35. She requested \$122,400 in relief. Cook claimed that \$798,800, allocated \$725,100 to land value and \$71,700 to dwelling value, was the actual value and a fair assessment of the properties collectively.

The Board of Review denied the protests stating on each decision, "Insufficient evidence presented to prove assessment is excessive."

Cook filed her appeals with this Board and alleged the properties were assessed for more than authorized by law under Iowa Code section 441.37(1)(b); and there was an error in the assessments under section 441.37(1)(d). Cook sought the same relief she did at the Board of Review. Cook did not claim the ground of error before the Board of Review, therefore this Board will not address that ground. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Since the downward change ground raised before the Board of Review was essentially a

market value claim, the over-assessment ground is properly raised before this Board. Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

Cook asserts a survey of the top 20 largest United States' cities showed a 20% drop in property values nationally and a 15% to 20% decline locally in the past two years. She does not believe property assessments should increase when property values are not increasing. Cook indicates the economy has forced sellers to lower their asking prices to compete for fewer buyers, resulting in reduced market values.

The Board of Review submitted an exhibit showing the method Assessor Patricia Dodds used for calculating land values based on front footage. Using the dimensions of the lot, Dodds calculated the effective front foot of lakeshore by adjusting the actual footage by a depth factor, then multiplied the result by a unit price. This figure was then adjusted by a map factor for the area. Dodds uniformly applied a unit price of \$4,500 per effective front foot in this lake area. The following chart summarizes the Board of Review exhibit:

Parcel	Front & Rear	Depth	Depth Factor	EFF	Unit Price	Map Factor	Total
03-34-301-008	40'	213'	1.11	44.40	\$ 4,500	0.94	\$ 187,800
03-34-301-009	50'	209'	1.10	55.00	\$ 4,500	0.94	\$ 302,000
03-34-301-010	50'	199'	1.09	54.50	\$ 4,500	0.94	\$ 230,500
03-34-301-011	44'	193'	1.08	47.52	\$ 4,500	0.94	\$ 201,000

The Board of Review also submitted exhibits to demonstrate the residential sales ratios for sales in the Orleans-East Lake area (93.39%), in Orleans (93.91%), and throughout Dickinson County (94.38%), do not show a pattern of over-assessment. We find Dodds' method of land pricing was reasonable and the method was applied uniformly to these lakefront lots. We believe sufficient evidence was lacking to prove the land and dwelling assessments were more than authorized by law as of January 1, 2009.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

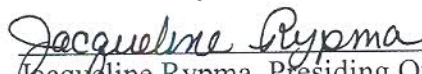
(Iowa 1995). Cook failed to offer evidence supporting her claim of over-assessment, and also failed to support what she believed was the fair market value.


Viewing the evidence as a whole, we determine that substantial evidence was lacking to support the Cook's claims of over-assessment as of January 1, 2009. We, therefore, affirm the property assessment as determined by the Board of Review. The Appeal Board determines the property assessment values as of January 1, 2009, are:

Docket No.	Parcel	Land AV	Bldg AV	Total AV
09-30-0796	03-34-301-008	\$ 187,800		\$ 187,700
09-30-0797	03-34-301-009	\$ 232,700	\$ 69,300	\$ 302,000
09-30-0798	03-34-301-010	\$ 230,500		\$ 230,500
09-30-0799	03-34-301-011	\$ 201,000		\$ 201,000

THE APPEAL BOARD ORDERS the January 1, 2009, assessments as determined by the Dickinson County Board of Review are affirmed.

Dated this 30 day of June 2010.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6.30, 2010</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	